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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,338	12/31/2003	Peter N. Martin	42P17996	4703

7590 09/28/2006

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EXAMINER

MISIURA, BRIAN THOMAS

ART UNIT	PAPER NUMBER
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2112

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,338	MARTIN ET AL.	
	Examiner	Art Unit	
	Brian T. Misiura	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13, 15-23 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13, 15, 16 and 19-23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 10, 18, 25, 28, 31 and 34 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 7-9, 17, 26, 27, 29, 30, 32, 33, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/2/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Response to Arguments

1. Applicant's arguments, filed 7/17/2006, with respect to claim 1 have been fully considered. However, the amendment to claim 1 has necessitated a 112 rejection. Please see rejections below for further explanation.
2. Applicant's arguments, filed 7/17/2006, with respect to claim 3 have been fully considered and are persuasive. The rejection of claim 3 has been withdrawn.
3. Applicant's arguments, filed 7/17/2006, with respect to claims 9, 17, 25, 28, and 31 have been fully considered and are persuasive. The art rejections of these claims and their dependent claims have been withdrawn. However, some of the amendments may have necessitated additional rejections/objections. Please see rejections below for further explanation.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 claims a first unique blinking pattern to indicate a first command to turn an indicator "on" solid. Claim 1 also claims a second unique blinking pattern to indicate a second command to turn an indicator "off". Claim 1 further claims where the first and second unique blinking patterns are different from each other.

According to the Applicants specification, paragraphs 38-39 and figure 4, the same blinking pattern of 'one blink' is used to illustrate both turning the indicator on and off. Therefore, according to the applicant's specification, the blinking patterns to turn the indication "on" and "off" are not unique.

The Examiner suggests removing what type of command the second unique blinking pattern is indicating (ex: "off"), as is done in Claim 34, and simply stating that the second unique blinking pattern is indicating a second command different from the first command.

5. Claims 1, 4, 25, 28, 31, and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The above-mentioned claims all contain claim language "hot-plug controller". The applicants submitted specification describes a 'standard hot-plug controller'. The examiner acknowledges the mention of a 'hot-plug controller' in paragraph 3 of the specification, however this is used in describing the technology and it is further mentioned that standardized hot-plug controllers were developed so that vendor-specific hot-plug controllers could be compatible across many platforms. Therefore, the applicant may only claim the 'standard hot-plug controller' that is described in the specification and drawings. By simply amending the above claims to read 'standard hot-plug controller', rather than 'hot-plug controller', will overcome this rejection.

6. The examiner would like to bring to the applicant's attention that if the applicant chooses to follow the examiners suggestion of changing all occurrences of 'hot-plug

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controller' to 'standard hot-plug controller', there would exist a double patenting rejection between Claim 9 and Claim 31 since they would then have identical claim language. Therefore in that case, cancelling either the set of Claims 9-11 or Claims 31-33 would be advised to avoid the double patenting rejection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 1 recites the limitation "wherein the second unique blinking pattern". There is insufficient antecedent basis for this limitation in the claim. The fact that the second blinking pattern is unique had not been established at the time of the above limitation. Therefore stating "the second unique blinking pattern" lacks sufficient antecedent basis.

The examiner suggests adding a limitation stating that: "the second blinking pattern being unique to the command being processed", prior to calling the second blinking pattern "the second unique blinking pattern."

8. Claims 2, 10, and 18 recite the limitation "make the *diode* blink". There is insufficient antecedent basis for this limitation in the claim. The 'diode' is referring to a light emitting diode (LED) that the applicant previously amended to the term 'indicator'. Therefore the examiner suggests changing 'the diode blink' to 'the indicator blink' in order to remain consistent with the previous claim language.

Claim Objections

9. Claims 9, 16, 17, 22, 25, 28, and 31 are objected to because of the following informalities: the duty cycle range specified by the applicant in the amended claims listed above is somewhat confusing. When the examiner presented the claim limitation: "the blinking pattern having a duty cycle that is less than or greater than approximately fifty percent \pm 5%", to his supervisor, she incorrectly interpreted the duty cycle range. Therefore, the examiner suggests the applicant amend the limitation to read as: "the blinking pattern having a duty cycle of R, where $45\% > R > 55\%$ ". This will eliminate any doubt to ones possible interpretation of the range of the duty cycle.

Allowable Subject Matter

10. Claims 1, 4, 25, 28, 31, and 34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

11. Claims 2, 10, 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 12, 13, 15, 16, and 20-23 are allowed.

13. Claims 9 and 17 are containing allowable subject matter and would be allowable if rewritten or amended to overcome the claim objection set forth in this Office action. Claims 11 and 19 are allowable pending the resolution of the claim objections to claims 9 and 17.

13. Claims 3, 5, 7, 8, 26, 27, 29, 30, 32, 33, 35, 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter of claims 9, 17, 25, 28, and 31: all of the mentioned claims contain the claim language "the blinking pattern having a duty cycle that is less than or greater than approximately fifty percent $\pm 5\%$ ". All relevant prior art found contained blinking patterns that had a duty cycle of 50% $\pm 5\%$. Therefore the above claims all claim a duty cycle outside of the range found in the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Misiura whose telephone number is (571) 272-0889. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on (571)272-3676. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Misiura

9/22/2006

[Signature]
REHANA PERVEEN
SUPERVISORY PATENT EXAMINER
9/25/06